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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,450	11/05/2003	Wilfried Naber	4002-1020-1	6370

466 7590 06/27/2006

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EXAMINER

SPERTY, ARDEN B

ART UNIT PAPER NUMBER

1771

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,450

Applicant(s)

NABER ET AL.

Examiner

Arden B. Sperty

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

FINAL OFFICE ACTION

1. Applicant's amendments and comments, submitted 4/06/06, have been entered and carefully considered.

Election/Restrictions

2. Newly submitted claims 16-17 are directed to a species of invention that is independent or distinct from the invention originally claimed for the following reasons: The previously claimed product possesses an upper portion, a middle portion, and a lower portion. The previously claimed middle portion has a constant density distribution. In contrast, newly added claim 16 has only an upper and lower portion, and possesses a density gradient which is "ever increasing" from a centerline between the two portions.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 16-17 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

3. Figure 4 remains objected to. It is not clear whether the illustration is a cross-section or a graph.

Specification

4. Objections to the specification are withdrawn, per the submitted amendments.

Claim Rejections - 35 USC § 112

5. Claims 3 and 9 remain rejected under 35 USC 112, second paragraph.
6. Claim 3 remains rejected, because Applicant has failed to address the question of what is intended by the term “fiberized.” Claim 15 is now included in this rejection because it also recites the term “fiberizing.”
7. Claims 3 and 9 remain rejected, because Applicant has failed to address the question of what is intended by “cross-linked” in the claims. Cross-linking may refer to the binder, the wool’s cystine linkages, or the wool further treated or cured to cross-link the fibers. Page 10 of Applicant’s response, filed 4/06/06, states that claims 3 and 9 have been amended to eliminate the problematic language, yet no such amendment is reflected by the claims.
8. The rejection of claim 4, under 35 USC 112, second paragraph, is withdrawn.
9. The rejection of claim 7, under 35 USC 112, second paragraph, is withdrawn per the submitted amendment.
10. Claim 9 remains rejected, because it is still unclear what is meant by “homogenous mass distributions in a transverse direction.” Applicant has not addressed this rejection, nor has the amendment overcome the rejection.
11. Claims 16-17 are rejected under 35 U.S.C. 112, **first paragraph**, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Description of the claimed embodiment has not been located in the specification. Applicant is required to point out enabling disclosure for the claimed embodiment.

12. Currently amended claim 3 is herein rejected under 35 USC 112, **second paragraph**, for being indefinite. The examiner has made an earnest attempt to decipher the claim and determine which limitations describe the product, process, and intermediate. However, there is no clear distinction between process limitations, intermediate product limitations, and final product limitations. For example, at the beginning of the claim, "portions" are described. Later in the claim, "two layers" are recited. The "two layers" seem to be intermediate in the formation of a final product, but the relationship between the intermediate "layers" and the final product "portions" is unclear. Following the recitation of "layers," the claim again returns to describing "portions." At what point does the claim stop and/or start describing portions and layers?

As another example, since it is not clear where the process limitations begin and end, the structural effects of the process cannot be ascertained.

Claims dependent on claim 3 are also indefinite, based on their dependency.

Claim Rejections - 35 USC § 102

13. Claims 3 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4746560 to Goeden, as stated in the previous office action.

14. Claims 3 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4917750 to Klose, as stated in the previous office action.

15. Claims 3 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4940629 to Weber et al, as stated in the previous office action.

Claim Rejections - 35 USC § 103

16. Claims 6, 8, and 10-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4746560 to Goeden, as applied to claim 3 above. The rejection remains as stated in the previous office action.

17. Claims 6, 8, and 10-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4917750 to Klose, as applied to claim 3 above. The rejection remains as stated in the previous office action.

18. Claims 6, 8, and 10-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4940629 to Weber, as applied to claim 3 above. The rejection remains as stated in the previous office action.

Response to Arguments

19. Applicant's description of the claimed subject matter, stated on page 11, lines 18-21, of the remarks filed 4/06/06, is not commensurate in scope with -claims 3 or 15.

Contrary to applicant's assertion, the claims do not "clearly" recite a mineral wool blanket/mat including "a symmetrical density distribution across a thickness of the product and has an increasing density from the middle to the outer edges."

20. The previously stated prior art rejections still apply, because the presently claimed structure appears to be the same as the previously rejected claims. However, the exact structure of the claimed product remains unclear, as detailed above in the section for rejections under 35 USC 112. Applicant's comments regarding the prior art are not persuasive because they are not commensurate with independent claims 3 or 15.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

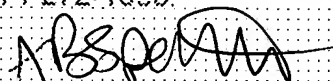
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

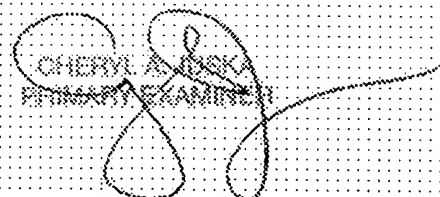
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arden B. Sperty whose telephone number is (571)272-1543. The examiner can normally be reached on M-Th, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571)272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Arden B. Sperty
Examiner
Art Unit 1771

June 21, 2006


CHERYL A. [unclear]
PRIMARY EXAMINER